

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:07CR137
)	
Plaintiff,)	
)	
vs.)	TENTATIVE FINDINGS
)	
ALVARO ARCINIEGA,)	
)	
Defendant.)	

The Court has received the Presentence Investigation Report (“PSR”) and the Defendant’s objections thereto (Filing Nos. 68, 70, 72, 74).¹ The government adopted the PSR.² (Filing No. 73.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

The Defendant objects to ¶¶ 21 and 28 of the PSR. Specifically, the Defendant objects to the conversion of \$26,740 cash found at the Defendant's electronics business to cocaine. The objection will be heard at sentencing. If the parties require more than thirty (30) minutes for sentencing, they should contact Edward Champion and reschedule the hearing.

¹Filing Nos. 68 and 70 appear to be identical to Filing No. 71. Filing No. 74, captioned as a “Statement,” appears to raise the same issue raised in Filing No. 71. The Defendant’s objections were apparently not initially brought to the attention of the probation officer as required by ¶ 4 of the Order on Sentencing Schedule.

²The government also referred generally to testimony from the suppression hearing, citing Filing No. 40. However, the relevant testimony is at pages 78-79 of Filing No. 20. In referring to prior testimony, it is helpful if counsel refers to the relevant portion of the transcript by filing, page and line numbers.

IT IS ORDERED:

1. The Defendant's Objections to the Presentence Investigation Report (Filing Nos. 68, 70, 71, 74) will be heard at sentencing;
2. Otherwise the Court's tentative findings are that the Presentence Investigation Report is correct in all respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;
4. Absent submission of the information required by paragraph 3 of this Order, my tentative findings may become final; and
5. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

Dated this 16th day of June, 2008.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge